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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/505,271

01/12/2005

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BORRMANN -2 (PCT)

5522

25889

7590

01/29/2007

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EXAMINER

SHRIVER II, JAMES A

ART UNIT

PAPER NUMBER

3618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/505,271	<b>Applicant(s)</b> BORRMANN, HANS-PETER	
	<b>Examiner</b> J. Allen Shriver	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 8 is/are allowed.
- 6) ☒ Claim(s) 6,7,9-11 and 14-18 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/20/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. **Claims 6-7 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Regarding claims 6 and 7, claim 1 previously set forth a set of wheels and a rod, therefore, it is unclear whether the wheels and rod set forth in claims 6 and 7 are the same element set forth in claim 1 or are different elements.

Regarding claims 16 and 17, claim 9 previously set forth a set of wheels and a rod, therefore, it is unclear whether the wheels and rod set forth in claims 16 and 17 are the same element set forth in claim 9 or are different elements.

Claim 14 recites the limitation "the accommodation journal" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the toggle lever" in line 4 and "the bearing accommodation" in line 5. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 9-11 and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Lee (US Patent 6,540,241 B2).** Lee discloses a pallet truck (10) having a lifting device mounted on the axle of two wheels, and a supporting frame mounted on two rollers, having two bearers (105), which is movably connected with the lifting device, whereby the lifting device has a lifting pump arranged on a console, which is arranged on a support that is mounted on the axle between the two wheels, and whereby a rod (132) is arranged on the lifting pump and the lifting pump has piston rod (131), the head of which projects out of the housing of the lifting pump, in an upward direction, and whereby a roller is arranged at the back end of the two bearers, in each instance, and the bearers are connected with one another at the front end by way of a crossbar, and a holder frame (104) having a socket is provided at the front end of the bearers, which socket is mounted on the head of the piston rod, in articulated manner, and whereby a two-armed linkage (11) is arranged on both sides of the console, the front arms of which are connected with the console, and the back rod of which is connected with the related roller, in each instance, so as to pivot, wherein the pallet truck can be broken down into two parts of approximately equal weight, and the disassembled parts can be reassembled to form the pallet truck (See Fig. 1); **[claim 10]** wherein the pallet truck can be broken down into the lifting device and the supporting frame, and the lifting device and the supporting frame can be re-assembled to form the pallet truck; **[claim 11]** wherein the lifting pump is configured as a thrust piston pump, the piston rod of which is mounted to be axially displaceable in the pump housing, and projects out of the housing in an upward direction (See Fig. 3); **[claim 16]** wherein a set of wheels having

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two wheels and an axle is provided, whereby a support is mounted to rotate on the axle, which support carries the console with the pump; [claim 17] wherein a rod (132) for lifting, lowering, pulling, pushing and steering the pallet truck is provided on the console, which rod activates the pump by being pivoted in the vertical direction.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US Patent 6,540,241 B2).** Lee discloses the pallet truck as set forth above including wherein the bearers have openings or recesses (See Fig. 2). However, Lee does not disclose the holder frame and the rod having openings or recesses. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Therefore, it would have been obvious to a person of ordinary skill in this art at the time of the invention, to provide openings or recesses in the holder frame and rod disclosed in Lee, in order to provide openings in which to fasten ropes to secure the items being carried on the pallet truck.

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*Allowable Subject Matter*

7. Claims 1-5 and 8 are allowed over the prior art.
8. Claims 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 6-7 and 14-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (571) 272-6698. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (571) 272-6914.

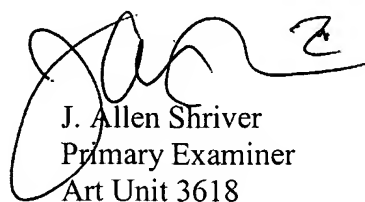
Any inquiry of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Or faxed to: (571) 273-8300 (for formal communications intended for entry). (571) 273-6698 (for informal communications directly to the Examiner).



J. Allen Shriver  
Primary Examiner  
Art Unit 3618

JAS